



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

Sw

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,653	11/21/2003	Janis Rottkamp		2370

7590

12/03/2004

Attention Thomas A. O'Rourke
Bodner & O'Rourke, LLP
425 Broadhollow Road
Melville, NY 11747

EXAMINER

MEISLIN, DEBRA S

ART UNIT	PAPER NUMBER
----------	--------------

3723

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,653

Applicant(s)

ROTTKAMP, JANIS

Examiner

Debra S Meislin

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

Art Unit: 3723

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the structure of figures 5a, 5b, 5c, 5d, 7, and 7a cannot be deciphered due to the lack of clarity thereof. Each figure must be separately numbered. Note figures 7 and 7a. Copies of photographs are not acceptable. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the hinge attached to where the shaft meets the handle (claim 5), the ball joint (as set forth in claims 14-16), and the u-bolt and ball joint (claim 16), must be shown or the feature(s) canceled from the claim(s). Applicant is cautioned against the inclusion of new matter.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

3. INFORMATION ON HOW TO EFFECT DRAWING CHANGES

Replacement Drawing Sheets

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the

Art Unit: 3723

examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

Annotated Drawing Sheets

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

4. Claims 5 and 14-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The structure of the hinge attached to where the shaft meets the handle (claim 5), the ball joint (as set forth in claims 14-16), and the u-bolt and ball joint (claim 16) is not understood.

Art Unit: 3723

5. Claims 4, 6, 8, 10, 12, 13, 16, and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 6 must be written as complete sentences including a period at the end thereof.

In claim 8, "attached to said drawing" is not understood.

In claim 10, "having a opposing sides" is not understood.

In claim 12, line 3, ---said--- should be inserted following "from".

Claim 13 is indefinite as being dependent upon itself.

In claim 16, line 3, "through an orifices" is not understood.

In claim 21, it is not clear if applicant is claiming a flat-bladed screwdriver or a screwdriver having slots therein.

6. The use of the trademark "Phillips" and "Torx" has been noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

7. Claims 20 and 22 contain the trademark/trade name "Phillips" or "Torx". Where a trademark or trade name is used in a claim as a limitation to identify or describe a particular material or product, the claim does not comply with the requirements of 35 U.S.C. 112, second paragraph. See *Ex parte Simpson*, 218 USPQ 1020 (Bd. App.

Art Unit: 3723

1982). The claim scope is uncertain since the trademark or trade name cannot be used properly to identify any particular material or product. A trademark or trade name is used to identify a source of goods, and not the goods themselves. Thus, a trademark or trade name does not identify or describe the goods associated with the trademark or trade name. Accordingly, the identification/description is indefinite.

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1, 3-5, 7, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Wahl.

10. Claims 1, 3, 6, 8 and 10-12 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Carriker.

11. Claims 1, 2, 6, 9 and 18-19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cotton Jr.

12. Claims 1-3, 6, 9, 13 and 17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jang.

13. Claims 1, 4, 9, and 13 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ellison.

14. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lucy.

Art Unit: 3723

15. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Hill.

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carriker in view of Smith.

Carriker discloses all of the claimed subject matter except for having a wrench, socket, "Phillips", slotted, or "Torx" driver. Smith discloses a wrench, socket, "Phillips", slotted, or "Torx" driver as shown in figures 1 and 4-6. It would have been obvious to one having ordinary skill in the art to form the driver of Carriker as a wrench, socket, "Phillips", slotted, or "Torx" driver as such are obvious variants as taught by Smith.

18. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carriker, Jang, or Cotton Jr. in view of Schauer et al.

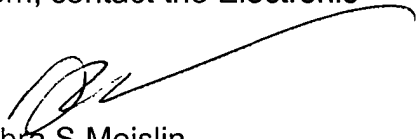
Carriker, Jang, or Cotton Jr. disclose all of the claimed subject matter except for having a handle having a ball connection. Schauer et al discloses a handle having a ball connection. It would have been obvious to one having ordinary skill in the art to form the handle connection of Carriker, Jang, or Cotton Jr. as ball connections to allow for the adjustability thereof and removability as taught by Schauer et al.

Art Unit: 3723

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin
Primary Examiner
Art Unit 3723

November 29, 2004